15.07.2024
Item No.19
PG
Ct. No.7

W.P.A. 2261 of 1985
(C.R. No. 2261(W) of 1985)
With
I.A. No. CAN 1 of 2007 (Old CAN 8979 of 2007)
With
I.A. No. CAN 2 of 2007 (Old CAN 8980 of 2007)

Kesoram Industries & Cotton Mills Limited & Anr.
Versus
The Municipal Corporation of Calcutta & Ors.

Mr. Lakshmi Kr. Gupta, Sr. Adv.
Mr. Biswajit Mukherjee
Mr. Debdatta Sen
Ms. Ledia Dasgupta
.....for the Petitioners

Mr. Alak Kr. Ghosh
Ms. Manisha Nath .....for the Kolkata Municipal Corporation

In Re:. **I.A. No. CAN 2 of 2007 (Old CAN 8980 of 2007)**
In
W.P.A. 2261 of 1985 (C.R. No. 2261(W) of 1985)

1. This is an application for recalling the order dated September 9, 2003 and for restoration of the writ petition to its original file and number.
2. Mr. Ghosh, learned senior advocate representing the Kolkata Municipal Corporation submits that such an application for restoration is not maintainable as the writ petition was withdrawn long prior thereto.
3. After going through the order dated July 9, 1997 passed by a learned Single Judge in W.P.A. 778 of

1997, this Court finds that the said order records the following:

> *"On instructions it is submitted by Mr. Dutta that the matters referred to in paragraph-3 of the order passed by the Hearing Officer on 22nd January, 1997 may be treated as withdrawn. Such prayer is allowed. While considering the matter, the Hearing Officer shall also take into account the notice issued by the Municipal Commissioner, being Annexure 'B to the writ petition."*

4. It appears from paragraph 3 of the order of the order of the Hearing Officer dated January 22, 1997 that the reference of C.R. 2261(W) of 1985 was mentioned. Therefore, this Court is of the considered view that C.R. 2261(W) of 1985 was treated to be withdrawn by the order dated July 9, 1997.
5. Thus, Mr. Ghosh was right in contending that this application for restoration is not maintainable. The application for restoration (I.A. No. CAN 2 of 2007 (Old CAN 8980 of 2007) in (W.P.A. 2261 of 1985 (C.R. No. 2261(W) of 1985) accordingly, stand dismissed.
6. There shall be however, no order as to costs.
7. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(HIRANMAY BHATTACHARYYA, J.)